

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

In re: PRESTON SERRANO JR.,
aka Pres Serrano Jr., aka Presentacion
Serrano Jr., aka Pres Serrano, and
LILLIAN M. SERRANO

NO. 7-08-12723-m7

Debtors.

DEBTORS' MOTION TO REOPEN DEBTORS' BANKRUPTCY
CONCERNING THE COURT'S ORDER
DENYING DEBTORS' MOTION TO AVOID JUDICIAL LIENS

Debtors, by and through counsel, Erenio Gutierrez Jr., Attorney at Law, move the Court to reopen debtors' bankruptcy for purpose of reconsidering the Court's Order Denying Debtors' Motion To Avoid Judicial Liens ("Order"). As grounds therefore, Debtors state:

1. Debtors commenced their case on August 19, 2008 by filing a joint voluntary petition for relief under Chapter 7, Title 11 of the United States Code.
2. Debtors filed an Amended Schedule A and an Amended Statement of Financial Affairs on September 18, 2008.
3. Debtors' Section 341 Meeting of Creditors was held on September 19, 2008.
4. Debtors filed a Motion to Avoid Judicial Liens ("Motion") on October 3, 2008, on the basis of two (2) alleged judicial liens referred to as the Aztec Judgment and Hatcher Judgment.
5. The Discharge of Debtors was filed and entered on November 14, 2008.
6. The Final Decree on this matter was filed and entered on December 4, 2008.
7. The Court's Order Denying Debtors' Motion to Avoid Judicial Liens ("Order") was filed and entered on December 5, 2008.

8. In denying the Debtors' Motion, the Court's Order referenced the Debtors' initial Schedule A filed with the Petition on August 19, 2008. Debtors' initial Schedule A incorrectly listed the property in Las Vegas Nevada as a "rental home" ("Nevada Property").

9. On September 18, 2008 Debtors filed an Amended Schedule A and Amended Statement of Financial Affairs correcting the listing of the Nevada Property from a "rental property" to debtors' residence from 1990 to 2006, and further alleged that at the time of filing their chapter 7 bankruptcy petition that the Nevada Property was under a pending foreclosure action in the State of Nevada. Debtors' Section 341 Meeting was held on September 19, 2008 and Debtors claimed no homestead exemption during their 341 Meeting in regards to the Nevada Property. Debtors have no ownership interest and have held no ownership interest in the Nevada Property since 2006. During their 341 Meeting and in Debtors' Amended Schedule A and Amended Statement of Financial Affairs, Debtors claimed and identified only their current New Mexico residence (4 King Court, Los Lunas, New Mexico) as their dwelling house and land under N.M.S.A. 1978 Section 42-10-9. Therefore, Debtors claim no homestead exemption in the Nevada Property.

10. Upon further information, the Aztec Judgment is not a recorded judgment but, under Nevada state laws concerning deeds of trust, is a recorded "Substitution of Trustee" and a "Notice of Default and Election to Sell Under Deed of Trust." Denying the Debtors' Motion in regards to the Aztec Judgment was correct and proper.

11. However, the Hatcher Judgment is a recorded "Judgment on Arbitration Award", filed on November 14, 2007, in Clark County, Nevada, a copy of which is attached hereto and incorporated herein by reference.

12. The Hatcher Judgment impairs the debtors' New Mexico homestead exemption,

which they are entitled to claim under N.M.S.A. 42-10-9.

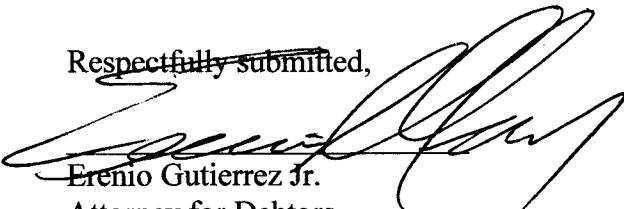
13. Debtors' Amended Schedule A, Amended Statement of Financial Affairs and

Debtors' sworn testimony made in their 341 Meeting is all evidence that should be considered by the Court, along with the attached Hatcher Judgment, in reopening Debtors' bankruptcy for the purpose of reconsidering the Court's Order Denying Debtors' Motion to Avoid Judicial Liens.

14. There is no need to have the Chapter 7 Trustee reappointed in this matter.

WHEREFORE, Debtors pray for an order reopening Debtors' bankruptcy for the purpose of reconsidering Debtors' Motion to Avoid Judicial Lien, such lien held by Debtors' creditor Theresa Hatcher, as identified in the instrument attached to Debtors' instant Motion and which was filed and recorded in Clark County, Nevada; and for such other and further relief as may be just and proper.

Respectfully submitted,


Erenio Gutierrez Jr.

Attorney for Debtors
PO Box 35278
Albuquerque, NM 87176-5278
505-345-9394
505-345-0775
Erenio2@yahoo.com

submitted electronically by:

Erenio Gutierrez Jr.

copies to:

US Trustee: Michael J. Caplan

US Trustees Office

Theresa Hatcher @ tshortsales@aol.com

ORIGINAL

FILED

Nov 14 8 54 AM '07

Chas. B. S.
CLERK

1 DAVID J. WINTERTON, ESQ.
2 Nevada Bar No. 004142
3 RICHARD L. DOXEY, ESQ.
4 Nevada Bar No. 009005
5 DAVID J. WINTERTON & ASSOC. LTD.
6 211 N. Buffalo Drive, Suite A
7 Las Vegas, Nevada 89145
(702) 363-0317

8 Attorneys for Plaintiff

9
10 THERESA HATCHER

11 Plaintiff,

12 vs. Case No.: A 533303
13 PRESTON SERRANO AND LILLIAN SERRANO
14 DOES I through X and ROE I through X,
15 Defendants.

Dept. No.: 21

#07-0783

16 **JUDGMENT ON ARBITRATION AWARD**

17 This action came on for arbitration hearing, before Arbitrator Harry Paul Marquis, Esq.,
18 presiding, and the issues have been duly heard, a decision having been rendered (attached) and
19 the prevailing party having been notified that judgment may be entered in accordance with the
20 award, as no timely Request for Trial de Novo has been filed, the court hereby enters judgment
21 on the Arbitration Award as follows:

22 IT IS ORDERED AND ADJUDGED that THERESA HATCHER, recover from
23 Defendants PRESTON SERRANO and LILLIAN SERRANO, the sum of Eleven Thousand Four
24 Hundred Fifty Dollars and 00/100 (\$11,450.00) in damages; Seven Hundred Seventy-Six Dollars
25 and 72/100 (\$776.72) in pre-judgment interest; and Seven Hundred Sixty-One Dollars and

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1 56/100 (\$761.56) in costs; for a total amount of Twelve Thousand Nine Hundred Eighty-Eight
2 Dollars and 28/100 (\$12,988.28).

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Valerie Adams
District Court Judge *jk*

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Submitted by:

DAVID J. WINTERTON & ASSOC., LTD.

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By: *RJW/D*

DAVID J. WINTERTON, ESQ.
Nevada Bar No. 004142
RICHARD L. DOXEY, ESQ.
Nevada Bar No. 009005
211 N. Buffalo Drive, Suite A
Las Vegas, Nevada 89145

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